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University of San Diego School of Law Student Bar Association

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There go the parking spaces

New University Center Planned



What is the huge dirt bowl across from the law school? This mound is the home of the New University Center.

The University Center is a 9.8 million dollar project. This Center will become the main attraction for student social life. The two story complex will feature numerous food bars to tantalize tastebuds. The first floor includes a Pub, highlighting pizza, hamburgers, beer and wine, and indoor-outdoor seating. Students can enjoy live entertainment at the adjacent stage while they relax with dinner.

The second floor adds flavor with an indoor-outdoor Deli. The Deli serves soups and salads for those who are weight conscious. Across the way, for those who indulge, is an ice

cream stand and of course a bakery with fresh baked goods. A super-market Seven-Eleven style will be available for the last minute shopping, and a gameroom for those students with free time.

The multipurpose room is one of the highlights of the Center. This room will be used for films, dances, club meetings and more. This room opens into the main dining room. The glass windows and doors open onto a balcony with a view of the bay and canyons.

Also located on the main floor will be student organizations from the graduate programs, law school, and undergraduate programs.

The complex is 76,000 square feet and completion is scheduled for fall '86. Next year when school starts this will be the place to come.

The Woolsock

BECKER: Landlord's Beware

By C. Naranjo
Editor-in-Chief

The influential and prestigious California Trial Lawyers Association sought the assistance of University of San Diego's eminent professors Ed Ursin and Virginia Nolan to co-author and file a brief in support of the plaintiff in *Becker v. IRM Corporation*, 213 Cal. Rptr. 213. The brief was successful in achieving the verdict which has now removed many of the obstacles toward recovery in the field of premises liability. The plaintiff verdict open the ways for application of strict liability principles to "slip and fall" cases.

The particular defect in *Becker* was a shower door made of untempered glass, which broke and lacerated plaintiff's arm when he slipped against it. The Supreme Court held that a landlord engaged in the business of leasing dwellings is strictly liable in tort for injuries resulting from a latent defect in the premises when the defect existed at the time the premises were let to the tenant. It is still an open issue as to whether strict liability would apply to a disclosed defect or to a defect which develops after the property is leased.

Professor Ursin and Professor Nolan brilliantly argued that the proposition that a landlord in the business of leasing is strictly liable in tort for injuries caused by a defective fixture on the leased premises is a pro-

position which is overwhelmingly supported by California case law. The Court has held that strict products liability applies to lessors in the same manner it applies to sellers and has further endorsed the application of strict tort liability to sellers of housing. The brief prepared by Nolan and Ursin articulated that the framework was clear for the recognition of the rule of landlord strict liability as landlord in the business of leasing would be subject to strict liability in the same manner as sellers of housing. It was argued that the Court's strict liability principles apply with full force to landlords. There was a further reiteration of the statement that the purpose of strict landlord tort liability would be to insure that the costs of injuries resulting from defects in leased premises are borne by landlords that, in the business of leasing, put the leased premises on the market rather than by injured persons who are powerless to protect themselves. Recognition of this rule further complements the protection given to tenants by the Court's holding that a warranty of habitability is implied in residential leases.

There were five arguments around which Nolan and Ursin successfully litigated this landmark case. The five

(Continued on page 12)



FROM THE DEAN'S DESK

by Dean Sheldon Krantz

Welcome to our new students and welcome back to those who are returning. You, our student body, continue to demonstrate why the reputation of USD is constantly on the rise. Admissions statistics suggest, for example, that our incoming first-year class should be about the best we have ever had and compares favorably with excellent law schools nationally. Our first-year teachers, by the way, can hardly wait to test the accuracy of these statistics. I know that the leadership of our student organization is in good hands, and I look forward to working closely this year with the SBA, the Law Review, the Moot Court Board, the *Woolsock*, and the many other fine student organizations and programs.

I think you will be pleased with the rich diversity of our curriculum and with our faculty. Along with our own regular faculty, we will have a number of fine visitors this year including Professors Garrett Flickinger from New Mexico, Elias Clark from Yale, Carl Auerbach from Minnesota, John Flackett from Boston College, Michael Lang from Maine, Vance Kirby from Northwestern, Willard Wirtz from private practice, and Judge Ted Tannenwald from the U.S. Tax Court. In addition, we will have guests visiting us from Japan

and Mexico on Fulbright Fellowships, Eiji Uremura and Jorge Fantestavan. We will also have over 15 foreign lawyers studying in our Masters of Comparative Law Program.

We are continuing our comprehensive first year writing program. Professors Perry, Greenberg, Markey and Shoesmith will be returning and will be joined by Ce Ann Wikenheiser. Finally, we have the good fortune of having highly skilled local practitioners who will be serving as adjunct professors and as trial advocacy instructors.

Aside from classwork, the School will offer you a number of opportunities to get involved in important research and law reform programs through our Center for Criminal Justice, Mexico-United States Law Institute Center, and the San Diego Law Center. Along with these programs, we plan to have an active year of special forums and seminars involving nationally recognized authorities discussing critical issues in various fields of law.

As you will see, the School is also striving to improve its services to students and its facilities. Work is almost completed on renovations of the Fletcher Classrooms, Classroom 2B and the main foyer in More Hall.

Overall, the academic year promises to be a very productive one. I hope it will be for each of you as well. You are in law school at a significant time. More and more questions are being raised about the profession you have chosen to enter. We intend to have USD provide a leadership role to both the profession and legal education.

As part of your legal education, I encourage you not only to learn "what is", but to challenge the basis for "what is" as well. Idealism and open skepticism among law students about the profession is desperately needed now. Try not to be overtaken entirely by the day-to-day requirements of the study of law.

One final note, our administrative staff is here to help you in any way we can to deal with the wide range of nagging problems that inevitably arise during a professional education. We cannot always solve your problems but we will try to help. The doors of all of our administrators will always be open to you. As noted earlier, we are a law school with a well-deserved national reputation for excellence. But we also want to have a well-deserved reputation for warmth and congeniality as well. I look forward to meeting each of you personally in the months ahead.

The Woolsock

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In the USD Law News

Briefly ...

PLANS FOR THE FUTURE.

The University Center is only one of the new complexes for the USD campus. USD is growing and has planned projects through 1995.

This vision for USD includes the new weight room facilities located near the Sports Center. The weight room will be available for use sometime this September.

In two to three years a 26,000 square foot addition to the law library is scheduled. This four million dollar investment includes the renovation of the current library and air conditioning in the new section.

The Fall of '87 previews the construction of 160 dorm apartments. These apartments will contain full kitchen units. The housing will be for graduates, law students and undergraduates. This will be located near the Sports Center. USD has also applied for permits to build a soccer field and a softball field in this area.

Adding to the artistic beauty of the campus beginning next September, Marian Way will be closed to traffic. The North and South Perimeter roads will be the mainroads for campus. Marian Way will be filled in and several different style gardens will be planted through the campus. An Italian garden is currently planned for the front of the Immaculata. This design and planting will take five to ten years and will be funded primarily through gifts.

The year 1995 will mark the beginning of the new Sports Center, a 9 million dollar project which will seat 5,000 people. The entire cost of this ten-year development is 40 million dollars.

STUDENT HEALTH INSURANCE NOW AVAILABLE.

There are two types of health insurance plans for new and returning law students. The University of San Diego offers a plan for all students. This is the Mutual of Omaha Accident and Sickness plan. Information and applications are available in the Student Affairs Office in Serra Hall, Room 200, and in the Law School Admissions Office, second floor, More Hall.

The Student Bar Association offers the second type of health insurance plan to all law students. Forms and information will be available on registration day, August 19 and 20, in the SBA Office.

DELAYS CAUSE TEMPORARY CONFUSION.

The grading and preparation for the University Center site was scheduled for completion the first week of August, however, problems are causing delays. The problem is a consequence of the school being built on top of a mesa. Originally when the land was leveled to build the first buildings for USD the excess dirt was pushed off into numerous canyons. Although the compaction of the soil was fine for parking lots, the construction of the University Center requires more rigid compaction standards.

In order to meet the required compaction standard of 95% all of the dirt had to be removed from the finger canyon and later recompacted in layers. No one knew the size of the finger canyon. Samples finally revealed that the canyon was eighty feet deep and much wider than the original estimates. The project became more complicated, more costly and required more time.

The major obstacle became where to store all the extra dirt the contrac-

tors needed to remove. The result was the creation of the mini-mountains next to DeSales and on Marian Way. These piles are waiting to be recompacted.

The contractors are working long and hard to have the site ready for the next phase and cleared from Marian Way the first part of September. Hopefully the next phase will go smoothly.

MAN DIES IN CONSTRUCTION ACCIDENT.

While doing the grading for the New University Center one man lost his life. On the morning of July 15, Donald Lee Whitt drove his Caterpillar up the large mound of dirt, when the engine died and Donald lost control.

Donald Whitt chose not to stay in the driver's steel safety cage, but chose instead to jump. He leaped from the machine, but did not clear the giant wheel. Mr. Whitt was crushed under the wheel of the machine.

It is a tragic event, especially because if he had worn his seatbelt and stayed in the safety cage he would have survived. The Caterpillar slid only ten feet after Whitt jumped. It stopped in a pile of dirt without rolling over.

FRIENDLY REMINDER

Federal Agencies Application Deadlines

Students of the classes of 1986 and 1987 who are interested in summer or permanent positions with the federal government agencies nationwide, and particularly in Washington, D.C., should be aware that application deadlines are approaching rapidly. Early deadlines exist for several agencies including the Federal Trade Commission, with a deadline of October 1, 1985, and the Department of Justice, with a deadline of September 27, 1985. Interested students should consult the "Federal Agencies Information Binder" in the Career Planning & Placement Office for complete details.

MUSLI: TEACHERS COURSE ON U.S. LEGAL SYSTEM

This summer the Mexico-U.S. Law Institute organized, for the second year, a two-week course on the legal system of the United States. The program was designed to familiarize attorneys, judges and comparative law professors from other countries with U.S. law.

According to Prof. Jorge Vargas, Director of the Mexico-U.S. Law Institute, the objectives of the program included introducing Commonwealth and Civil Law attorneys to American viewpoints and problem-solving methods and to expose colleagues to the cultural aspects that influence effective international legal transaction.

This program has been particularly successful among foreign attorneys working for important law firms abroad, or for those legal practitioners enrolled in graduate programs in U.S. law schools. This year participants came from Mexico, Federal Republic of Germany, Philippines, Haiti, Ecuador, Kenya, United Arab and Japan.

The course has been divided into two parts: academic and practical. The academic program consisted of a series of lectures delivered by USD law professors. On the practical side judges and government officials shared their professional experience on a variety of legal questions, including tax problems, technology transfer and border issues.

Doug's New Deal

Douglas Friednash
SBA President



Welcome to the new students and welcome back to those who are returning. I would like to take this time to introduce myself as your Student Bar Association (SBA) President. You are all invited to come by my office and meet with me. My office is located on the first floor of More Hall. The SBA, of which you are all members, is looking forward to a great year.

Second year student, Joe Mueller, the American Bar Association (ABA) Law Student Division Representative from USD, and I just returned from Washington, D.C. where we attended a meeting of the American Bar Association Law School Division (ABA/LSD). This conference was attended by all accredited law schools in America. All the schools annually meet and decide on the policy structure of the law schools themselves and of the organization. One policy stance taken this year was the decision to take ABA money out of South Africa.

The main goal of the ABA/LSD is to increase the growth and development of American law schools by setting higher standards and assuring the quality of legal education in all spheres. At the conference various resolutions were passed which encourage such growth.

A major emphasis of the conference was the need to increase the role of the law students in the governance of the law schools themselves. The proposals raised were aimed at making law schools more aware of the necessity of student/faculty relations.

I would like to see a student representative at USD faculty meetings. That student would have a direct voice and would work to help alleviate the tension which exists between the faculty and the student body. ABA/LSD Resolution 85.8 proposed that the ABA be amended to substantially increase the role of students in the governance of law schools emphasizing the fact that the students must be taken more seriously. I believe that a Student Faculty Representative would greatly enhance the student/faculty relationship at USD.

There are various exciting social and academic events which are planned for this year of which I would like to inform you. The SBA picnic will be held on September 25 at the campus Sports Center. There will be food, music, and lots of pickup teams playing various games such as volleyball and softball and tennis. It is a great way to meet people.

On Friday, September 7 there will be an SBA dance held at More Hall which should be lots of fun. The R&R band playing will be Safari of Love and there will be snacks and door prizes. The next dance to look forward to is the Annual Halloween Party which is traditionally a great success, it will be held on October 25.

SBA class elections for representative will be held on September 9th and 10th with the ballot being open from August 28 to September 5. Your participation is greatly encouraged, among other attributes it is a great way to meet people and become involved in interesting issues. Among other activities you will participate in establishing the year's budget for the law school organizations at USD.

There are plans to bring interesting speakers to campus including policing leaders. Three Thursday night jazz concerts have been planned along with some informal keggers on Fridays. Various cultural events are in the making. Receptions will be held for a cross section of people in the legal profession which the students will be interested in meeting, among which are a local sports attorney and judge.

My great hope and expectation is to make the SBA much more visible upon campus, working to make this a better school, a school involved in interesting and enjoyable activities.

The SBA board consists of five officers on the executive board and thirteen class representatives. My fellow Executive Board members are Day Vice President, Sue Melton, Night Vice President, Melissa Crenshaw, Secretary, Patty Sieneke and Treasurer, Greg Fucciello all of whom are available to speak with, drop by the SBA office and get acquainted. Early in the semester the Board will perform the important function of budgeting the SBA money between all of the student organizations.

In conjunction with the alumni the SBA will be having a Padre nite and the details are to follow in the upcoming Woolsock. A night at the Hollywood Bowl has been set for September 14th and further details can be had by contacting the alumni office. We hope to foster and encourage strong collegiate alumni relations.

I would like to take this time to encourage students to become involved in student organizations. I was elected President of the SBA as a second year. As a first year I was elected class representative from Section C and was fortunate enough to win the presidential election. What I would like to emphasize, especially in light of my own experience, is that students should not be awed by their environment. Students must become more immediately aware of the fact that they all are important individuals, even as a first year each student has a lot more power individually than he or she may be aware of. The SBA is your organization and I especially encourage involvement in the governing body of the school.

I look forward to getting to know as much of the student body as I can and I hope you will all feel comfortable speaking with me about any and all issues which are of concern to you. I am looking forward to a great year ahead.

The Student's Court

The Honor Court of the University of San Diego School of Law lays down the law which governs the student body with respect to conduct relating to academic affairs.

Any person who has a reasonable belief, beyond a reasonable doubt, that a fellow student has violated the honor code shall file a written statement of the facts and circumstances with the Honor Court. The statement of facts shall contain all information relating to the alleged breach, including the names of all known witnesses.

Violation of any academic matter includes the following: violations involving the use of materials in an exam or research assignment, submitting as one's work the work of another, failure to comply with academic rules, material misrepresentation toward satisfaction of the minimum grade requirements, or intentionally tearing, mutilating, defacing or destroying any university library material such as throwing books out the windows.

Elections for the new Honor Court are held each spring during which time three student justices are elected, a prosecutor, preliminary examiner and two alternate justices.

If for some reason a student receives a ticket and believes an error has been made, the student has a right to appeal. The student can appeal to the ASB Court of Appeals in Serra Hall. This can be an excellent opportunity to practice one's oral advocacy skills.



The Woolsock

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Reilly Atkinson
Photographers — Jodi Leazotti, Bruce Gale

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Women-in-Law to Host Conference

The 15th Annual Far West Regional Conference on Woman and the Law will be held at USD, October 25-27. Women-in-Law will host this year's conference which originated to focus on women's effect on the law and the law's effect on women. The theme for the 1985 event will be: Unite to Influence the Future.

Previous Far West Regional Conferences have consisted of 30 to 80 workshops held during a three-day period. Approximately 500 people from California, Oregon, Washington, Idaho, Montana, Nevada and Arizona usually attend. This year's conference is expected to consist of 30-40 workshops conducted by leaders in their fields. Past topics have ranged from comparable worth to trial advocacy techniques to alternative careers in law. Additional events will include a keynote speaker, a welcoming reception and an evening concert or comedy show.

A unique aspect, of the conference is that it is planned, organized and coordinated by law students. A diverse

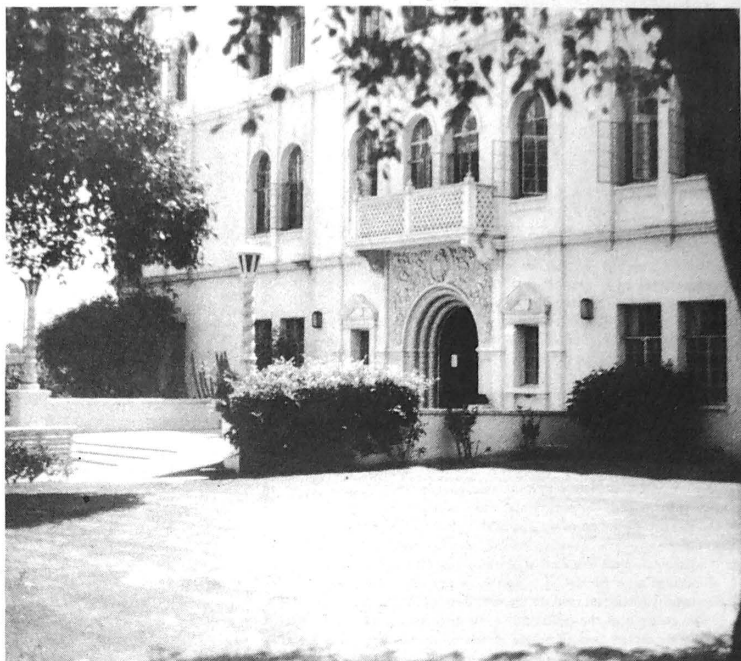
group of participants attends, including community organizers, labor leaders, social service providers and educators as well as legal professionals in a variety of areas.

Women-in-Law is seeking enthusiastic and talented people to become involved in this endeavor. The organization reports that exciting work remains to be done in creating workshop themes, engaging workshop participants and overall organizing.

Women-in-Law can be contacted by mail through the Law School or by calling (619) 260-4600, ext. 4457.

In an effort to raise funds to supplement the conference budget, Women-in-Law sponsored a faculty auction in February. Faculty members donated "prizes" for which students then bid. Bidding was especially spirited for a gourmet dinner for four, prepared by Professor Allen Snyder, which netted \$150 and a sailboat ride offered by Prof. Robert Fellmeth, which brought \$115.

The project raised \$1,500 for the conference and provided an entertaining diversion around the School.



Center for Public Law

Students are assigned to monitor the performance and attend the meetings of two state regulatory agencies, from the Public Utilities Commission to the Air Resources Board, the Bureau of Automotive Repair to the Coastal Commission. Their records provide the source material for detailed reports on the policies, legislation and litigation in which these state bodies are involved.

Interns accepted into the program are encouraged to make their work with it more than an academic exercise by actively participating in the regulatory processes.

Past projects have included in-depth critiques of boards and commissions. All the projects have stirred reactions; from reform-oriented legislative proposals to rulemaking initiatives. Some of the detailed written and oral testimony at public hearings contributed to the elimination of hundreds of unnecessary rules, consistent with AB 1111, and the creation of the first ratepayer organization given access to utility billing envelopes through regulatory action, an effort since duplicated nationwide.

The Center has also tested remedies available for enforcement of the Open Meetings Act by requesting an advisory opinion from the State Attorney General, which when issued first confirmed that the statute lacked any civil remedies whatever. The Center subsequently drafted a proper remedy and in January 1985 an amending bill was introduced into the state legislature. Reflecting the growing receptivity to Center model legislation, five legislators authored these bills, and three of them were carried or supported by committee chairpersons.

These included bills to abolish the Board of Fabric Care, to provide a civil remedy for violations of the Open Meetings Act, to create an advisory committee to the Department of Insurance, to limit ex parte contract of Public Utilities Commissioners, and a bill to clarify the State Bar open meetings and public records provisions.

The Center for Public Interest Law is a clinic program of the School of Law. It is a nonprofit academic center focusing on the study of the

regulatory process in California. The Center publishes the *California Regulatory Law Reporter*, a major academic journal monitoring and reviewing regulatory agency activity in the state.

Approved by the faculty in 1979 and directed by Professor Robert Fellmeth, the Center serves as a widely used resource on state regulatory activity, as well as a clinic program for advanced-year law students in regulatory and administrative law. Recognizing the need for a visible and responsive regulatory branch, and legal education in administrative law and for substantive training Professor Fellmeth and a small professional staff designed and implemented the Center's program.

Center interns participate in a two year program that includes course work in California administrative law, practice observation of the state's agencies and opportunities for publication in the *California Regulatory Law Reporter*.

Subsequently, several Center interns worked with representatives of the State Bar to draft rules regarding public records and open meetings, and in August the State Bar is expected to adopt those rules.

Upcoming projects include plans to file a petition with the State Banking Department to hold hearings on the subject of creating a Banking Advisory Board made up of consumer and industry representatives; and plans to file a petition with the Air Resources Board and the California Energy Commission requesting that hearings be held to establish standards for approval of waste-to-energy plants in the state.

Some 100 former Center interns are already practicing law, many in the regulatory field. The Office of Administrative Law has included on its staff two former interns, one of whom now serves as committee consultant to the Assembly Select Committee on OAL Oversight. Other former interns include a staff attorney with the Department of Health Services, a staff consultant to the Senate Judiciary Committee, and several deputy district attorneys. Others are working in federal agencies in Washington, D.C., in public interest organizations and in private practice.

Career Planning and ESSENTIAL: Placement Bulletin

Welcome back! We hope you have had an enjoyable summer and we look forward to your participation in Career Planning & Placement programs throughout the year. We also ask that all second, third, and fourth year students carefully review the fall recruiting information (on yellow and green paper) that was included with your registration materials. Students who wish to make an appointment to review their resume or discuss their career plans should contact Susan Benson or Mary Ann Salaber in the Placement Office at 260-4529, or stop by the Placement Office in Room 111 on the first floor of the Law School.

Listed below are programs which should be of interest to all second, third and fourth year students. Students are asked to sign up in the Placement Office for the programs they plan to attend.

• "Part-time, Permanent, and Summer Employment Information Meeting"

Thursday, August 29, 1985 - 5:00 p.m.

Fletcher Reception Hall

Informational meeting concerning part-time, summer and permanent employment for 2nd and 3rd year day, and 3rd and 4th year evening

students. Job search strategy, application deadlines, resume writing, and services and resources of the Placement Office will be discussed.

• "Dress Investment Seminar" - Presented by Nordstrom

Tuesday, September 3, 1985 - 12:15 p.m.-1:00 p.m.

Fletcher Classroom

Tips on assembling a professional wardrobe will be discussed. This program is for men and women!

• "On-Campus Recruiting Informational Meeting"

Wednesday, September 11, 1985 - 12:15 p.m. and 5:00 p.m.

Fletcher Reception Hall

This presentation will cover the procedures and schedules of the on-campus interviewing program. All students who will be participating in on-campus interviews are encouraged to attend.

• "Interviewing Skills Workshop" Part I (Mock Interview Videotapes)

Thursday, September 12, 1985 - Times to be arranged

Media Center, DeSales Hall

You must sign up in the Placement Office. We must limit participation. Students who would like to participate in the mock interview should see Mary Ann Salaber in the Placement Office. This will be excellent preparation

for the fall recruiting season! Brief "introduction" videotapes will also be available.

• "United States Department of Justice Informational Meeting"

Thursday, September 12 - 2:30 p.m. and 3:30 p.m.

Fletcher Reception Hall

A staff member of the Office of Personnel Management, Washington, D.C. will discuss legal career opportunities nationwide with the Department of Justice.

• "Interviewing Skills Workshop" Part II

Friday, September 13 - Times to be arranged

Media Center, DeSales Hall

Review of mock interview videotapes, and discussion concerning interviewing preparation.

• "First Day of on-campus interviews"

Wednesday, September 18

• "The Summer Associate Experience"

Monday, October 21 - 12:15 p.m.

Fletcher Classroom

Panel presentation by USD students who held summer associate positions. Students will discuss their personal experiences and provide information which will be useful to students evaluating job offers.

Welcome to Law School

Until a few months ago, I was a leper. No, I didn't have a physical disease. I was a social leper, an academic leper, a law school leper. Actually, they do have a more common name for what I was. I was a First-Year Evening Division Law Student. (It doesn't even sound good!)

You've probably heard of them, or maybe even — God forbid — talked to one, briefly. They are strange-looking creatures. Always walking around in a daze ... searching for Room 3-B, or a bathroom. You can usually see them in the library, on the verge of tears, or about to get sick.

They are easy to spot. But, in case you are unsure of who they are, let

me tell you about them: They like to carry a lot of books. You can spot them chasing after a professor asking something stupid like "Will we have to know where Corbinia is for the bar exam?" (You would think they would at least try to hide it.) One minute they will be wondering if a 92 average will be good enough to make law review, the next minute you'll hear them say, "I've heard National's program isn't that bad."

Now I know most of you second-, third- and fourth-year students already know how to skillfully avoid these weirdos. The detached "get away from me, goof" stare is very effective. Any reference to the bar exam will also bring about sufficient feelings of inadequacy to keep them

away from you. When all else fails, bring up the number of first-years who "don't make it" (inflate the number as you prefer). Sheer terror is a great conversation stopper.

As I go into my second year, I'll try not to forget the trials and tribulations that the first year in law school brings, how a kind word or gesture of reassurance can mean so much.

I hope you First-Year Evening Division Law Students will realize that there is life after that first year. That first year of isolation and despair does eventually end and you become a recognizable, accepted member of "the group." Then again, if you don't make it through the first year ...

Scott C. Taylor.

OPINION OPINION OPINION

EDITORIAL:

A RETURN TO EDEN

Steve Cowen
Associate Editor

What is law? Is law the custom of a society, or is that custom in a society enforced by government. Obviously law is a custom or a value in society that government chooses to enforce and punishes with fines or incarceration. But, yet, where there is no government enforced law there are still rules of conduct that govern the relationships amongst people. So, law extends further than just that which we find in statute or cases.

But what values in society are worthy enough to be codified into law. Any custom or value a judge or legislator thinks is "good", or must even a "good" value measure up to an immutable standard, or inner morality, before it is worthy of being law?

Many judicial activists claim that law is something in constant motion, on a "path" but with no fundamental unchanging value other than what is good for society and which society will live with. This, loosely, is the position of the law held by Holmesian jurists.

There are others, including myself, who feel that there are indeed fundamental values that cannot be transgressed if a legislative or judicial decree is to be law. If a decree, in my view, transgresses the fundamental inner morality of the law, then the decree is not law.

An example of the difference in the two models of thought, a legislature decrees that all people of Jewish ancestry must report to forced labor camps. In my view this violates the inner morality of the law and is not valid law. Yet, under the Holmesian view, this law is valid law. It might not be good law but it is valid law. The Holmesian must accept this possibility as something that could happen under their theory of law because there is no standard that must be satisfied before a decree can be law. The Holmesian says that is why it is imperative that legislators and judges have good values. And since most lawmakers are legally trained, that is why it is so imperative that law schools teach good values.

These two models are set forth because I feel it helps to understand many of the hot political/legal issues today. Especially the abortion issue.

On the one hand you have the anti-abortionists who feel the abortion decrees are non-laws that should be erased because the abortion decrees fail to measure up sufficiently to the standard necessary for even a legislative or judicial decree to be law. To the anti-abortionist, the abortion decrees have as much validity as would a law reinstating the concentration camps.

On the other side are the pro-abortionists. They hold to a more Holmesian view of the law. The law must change as the value of a society changes. Nothing is absolute, nothing is set in stone.

The fundamental clash, then, over many political/legal issues is the clash between two divergent concepts of legal thought. For the past 15 to 20 years the Holmesian approach has reigned supreme, only to be eroded as of late by a public cry for a return to the concept of the inner morality of the law. I welcome a return to the latter.

BIG STICK OR A WILLOW WISP

Steve Cowen
Associate Editor

There is an obvious terrorist problem. The memories have faded as of late, but the TWA hijacking was not too far in the distant to remember the anger and outrage. I think there is a better way, be it harsher, to deal with the problem than the present "Flailing of the big stick approach."

I see the problem in terms of linkage. Linkage is a "buzz word" meaning, in its most commonly used sense, that when dealing with terrorists there cannot be any connection between the terrorized nation's response and an appearance of giving into the terrorist's demands.

I agree with the linkage concept, but in a modified form.

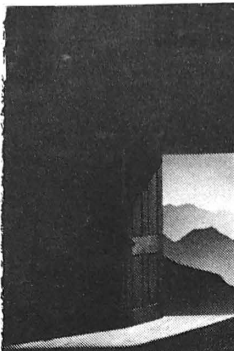
We should, starting now, make it clear to would-be terrorists that the United States government is not going to get involved when private U.S. citizens are "hijacked." This will let the terrorists know that they cannot motivate the U.S. government by taking civilian hostages. They will soon cease to take the hostages

because the hostages will offer no leverage. The hijacking of a TWA plane will become the problem of TWA. They will be responsible for the passengers and the airplane.

If there is not a concept of linkage in the terrorist mind, then this form of terrorism will become less popular. There will be nothing in it for the terrorists except the board and care of hostages.

If the situation is clearly one of an out-and-out attack on U.S. governmental entities or military/foreign policy objectives, then the U.S. government should respond or retaliate. This is the situation where military might should be flexed and/or used.

This approach calls for self-sacrifice. I dread the thought of being on the first airplane hijacked after the implementation of this type of approach. But, in life, sometimes hard decisions and sacrifice must be made in order to secure the overall best outcome.



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A message from The Advertising Council and The International Youth Exchange.

A NEW TREND IN PERSONAL INJURY DECISIONS?

I have watched the demise of two personal injury cases lately. The law firm that handled them thought they would be big winners. Both, at this point, were big losers.

In the first case, an elderly lady was crossing a street and was hit by a car creeping through an intersection making a left hand turn. She died when the car hit her in the crosswalk. In the second case an elderly lady was leaving a Senior Citizen's Club, and she slipped while traversing a "crack" in the sidewalk. She fell breaking her ankle.

In the first case the jury returned a defense verdict — no liability. In the second the judge granted a motion for non-suit. In other words, the plaintiff never legally proved to the satisfaction of the court that a duty had been breached, which duty was the proximate cause of plaintiff's injuries.

The plaintiff's attorneys thought they could win, or else they would not have spent a great deal of time and effort bringing the cases to trial. My question: Do these two cases signal a change in personal injury tort law or were they just aberrations? Are juries and judges tired of the "bleeding heart" story and much more apt to place the fault on the plaintiff?

I do not think that these two cases were the exception. I think we are witnessing a change in course. In the past it seemed that a hardship story resulting from a personal injury

would cause a jury to look over the comparative/contributory negligence factor in the equation and would strive to find a "deep pocket" to compensate the plaintiff. It seems to me that today the rugged individual who takes his lumps and personally pays for his own carelessness or inattention is a value not easily overcome in the trier's mind.

I believe the sources of this change are the values of society today and the political structure today filtering into the slowest changing of institutions — the courts.

President Reagan for years has pushed legislation in favor of getting government off our backs and conversely, the people's hands out of the government pocket. In society, generally, people are more self-centered than in years past. The general populace comes to the aid of the starving and oppressed, but not in the way people did in the 1960's and 1970's where it was commonplace for individuals to be heavily involved in social causes.

The legal consequences of the tortoise-like legal system changing might well be that a personal injury case is harder to win, or the amount of the award is much less. It may well mean less of an emphasis on personal injury law by law firms. While I don't think causes of action will be abolished, say for emotional suffering or loss of consortium, it may well mean that these causes of action will be overlooked and left uncompensated

in the scheme of things.

I only wonder if it will mean the end of absorbent insurance premiums, for it was the insurance companies who complained most about the true cost of huge settlements and/or awards. I doubt it.



A PARKING NIGHTMARE

The cost of law school has been going up and up and up. Last year, and probably this, nobody will say much because that is just the cost of a good legal education. But at least last year we all had some places close-in to park. But with the construction of that big hole across the street, no way will very many of us be able to park anywhere near the law school.

I see a real problem here over parking, with no obvious, reasonable solution. I, and I think many others, would like an explanation from the administration, either of the law school or of the University of San Diego generally, as to what the long-term outlook is. I would gladly publish it in the opinion section of *The Woolpack*. Thanks.

AIDS FOR DOING WELL

HOW TO DO WELL IN LAW SCHOOL

Not everybody who comes to law school is out to make the top 10% of the class. Many come to get a "legal education" and want only graduate in a respectable percentile. But, then, there are those who want to receive law review invitations, letters that start out "Congratulations on an outstanding first year..." This article is for the latter group.

First off, there is no single formula for doing well. But, generally, know thyself and know thy professor. Don't abandon study habits that worked for you in college. Individuals respond to, are motivated by and do well as a result of different techniques and approaches. Understand your professor. I don't mean making an appendage of yourself, but understand how he thinks and what he is looking for.

Don't Fall Behind

In law school they inundate you with material to read, organize, comprehend and then be able to recall, analyze and opine about on an exam. It is hard work, not hard like carrying buckets of hot tar up three flights of stairs on a summer day in beautiful Barstow, but mentally and physically challenging.

Stay up in your classes. Don't play you behind. Don't procrastinate. It doesn't take long to get way behind. Avoid this pitfall and you'll have to work yourself out of making it through the first year.

Personal Class Outlines

Soon you will learn about making personal outlines of course material. The purpose of an outline is to organize rules of law, policy considerations and "tips" in a way that you understand, and the way your professor wants to hear it if a fact situation arises on an exam where that rule of law fits or might fit depending on the circumstances of the test.

I think outlines are absolutely essential. I did my outlines every following week for the week before. This kept me caught up. Another approach, and probably the more popular, is to outline after every self-enclosed unit of material for the class. For example, after offer in contracts. Generally, you will be outlining after every chapter.

I believe in keeping your own outlines. It is the best way for you to learn and internalize the knowledge necessary to understand the material.

Commercial Outlines

Commercial outlines are outlines of courses or textbooks done by a certain "expert" in the field and sold at an exorbitant price to the insecure law student. Some people swear by them. I didn't swear by them, because certain teachers make it clear you don't need them and that, in their experience, they actually hurt.

Listen to your professors. By all means don't solely rely on a commercial outline. Use them when you need them, to clarify a certain rule of law, issue or policy, or to augment your understanding of the law as evidenced in your own personal outline.

Study Groups

These work for some people and don't for others. I didn't study with anyone after the 7th week of first semester. I bounced ideas, concepts, or "is this what you got out of it" off a couple of close and trusted people, but that was it. In a study group you often end up wasting a lot of time talking, complaining or spinning your wheels. People in study groups often split the classes up and one or two people concentrate on that class and the creation of its outline, and then they all trade the outlines. In theory each outline should be 100 proof. I think a lot is lost in the transition. I advise keeping your own outlines, and studying with others sparingly. Your learning experience depends on your understanding of the material.

Time Management

Allocating your time is crucial. You don't have to spend 10 hours, 7

days a week studying. Study the amount of time you need to understand the material, and to complete your outlines weekly (or whatever works) and to be reasonably prepared for class. Like the good book says, however, "Six days God worked and on the seventh he rested." This is a good bit of advice. Take a Saturday or a Sunday off and spend it with your wife, taking a day trip or going to the beach. You'll find the week goes better and that you won't burn out as easily.

Test Preparation

If you keep up, preparing and taking the exams will be much easier. The general scheme of things, you will have a classless week to prepare for the tests; the tests will be spaced out about two a week and one in the last week.

During the dead week, finish your outlines. You will have some time between tests to work on your out-

lines, but try and get them all done before your first exam. I recommend this because preparing to study for a test and studying to take the test are two distinct processes. Separate them. Get your outlines ready, and start studying, zero in on the teacher, the material, and the type of exam you hear he gives. By separating preparation and actual study I felt I understood the material better, and I did better than in the first semester when I tried to shift gears, from doing outlines and preparing for a test, to going in and taking one.

Exams

There are generally three types of exams: the race horse exam, the analytical-type exam and the multiple choice exam.

A race horse exam is one where the test's fact pattern is chalk-full of causes of action, issues to which rules of law you learned apply and policy considerations. The winner is the one who "spots" the most issues, and correctly applies the rule of law in the most legible manner.

The analytical exam is the common law school test. The fact pattern presents some issues that call for a simple application of a rule of law, but presents others that two or more

rules of law might apply. The key with the latter, don't panic, identify the issue; then explain what facts elicit the application of rule one; then the facts which might elicit the application of rule two. Now, use your own analytical powers and common sense and make an argument for the application of whatever rule you think is most sensible. But remember, keep the call of the question in mind. If you are asked to advise your client, don't paint such a bleak picture that he would walk out. Then again, don't tell him he is a sure winner and open yourself up for a potential malpractice suit. Be balanced in your approach.

The multiple choice exam is the new kid on the block. They are the least stressful, but they trip some people up bad. On these tests, if you understand the class material, each question will have two answers that could be right but one is more right. Your job is to pick the best answer.

On this test, take your time. Read the question over and over, and don't leave the test early, take all of the time allotted to you.

In closing, have fun in your first year. Law school sure beats flipping hamburgers.

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BOOK BEAT

STUDY AIDS IN PREPARATION FOR COURSE OF STUDY OF LAW

CASEBOOKS

Casebooks are a series of both federal and state appellate level judicial opinions that are organized to bring forth a rule or theory of law. Most professors use casebook reading assignments and classroom discussions as their principal teaching method.

Casebook supplements include statutes, codes, supplemental cases and restatements of law. Restatements, formulated by the American Law Institute, are academic estimates of the present state of the law. While restatements are not law, they are persuasive authority in a given area and can be useful tools in understanding a particular area of the law.

HORNBOOKS

Hornbooks are legal texts which explore in depth a given area of the law. They are usually very accurate, complete and up-to-date statements of rules of law. They are helpful if you are confused about a particular area of law because the topic sections are short and understandable.

DICTIONARIES

A legal dictionary is a good investment for your first year of law school. The law has many specialized terms and a legal dictionary will be of use to you as a student and attorney. The two major hardbound dictionaries are Blacks and Ballentines. Several paperback dictionaries are also available. The library has dictionaries on the first floor.

COMMERCIAL OUTLINES

Commercial outlines take an area of law and reduce the black letter law to an outline form. Used alone the outlines are very inadequate, but they can be very helpful when used with other materials. Commercial outlines are good examples of how to organize your own outline. They also provide sample exams to practice for your course. The use of an outline varies by subject and professor, so the best idea is to consult a second- or third-year student to find out which commercial outline is best for a particular professor. The major commercial outlines are Gilberts, Emanuel, Sum and Substance, Legals, Nutshell Series and COIF.

PROFESSORS

Most professors are accessible after class and in their offices. They are a wealth of information and they love to talk about their particular subject. If you are confused, go and talk to them and ask your questions.

NOTES AND BRIEFS

In some classes the best study materials will be your notes and case briefs, or an outline prepared specifically for the professor's class. Try not to miss any classes. If you do, ask someone if you can borrow his/her notes to copy. We encourage cooperation with class notes because it lends an air of humanism to an environment where humanism is scarce.

YOUR OWN OUTLINE

One of the best ways to be prepared for exams and to be on top of the material is to build an outline for each course, week by week. By examining the prior weeks notes and briefs, consulting a hornbook, and glancing through your commercial outline, you can create your own outline. Outlines drafted by previous students are on reserve in the library for those courses.

CANNED BRIEFS

Canned briefs are briefs commercially prepared for certain casebooks. They are occasionally inaccurate, and are not recommended for use in the first semester of law school (at least). They can be helpful when you are faced with a difficult concept. The major drawback, though, is that reliance on canned briefs will not allow you to master the art of case analysis since you are letting someone else do it for you.

TESTS ON RESERVE

Most professors keep old exams on reserve in the library. The exams provide a good model of the type of test you will be receiving. The exams are designed to determine how well you can spot legal issues raised

(Continued on page 12)

HELPFUL HINTS

by Julie R-Cardenas

1. Do not panic... you will survive law school.
2. If you get behind in your readings begin with the reading for the next class. (You can catch up later.)
3. If you work well with people, study groups will help.
4. Outlines are important. Begin outlining about six weeks before finals.
5. If you have a study group you might want to have each person choose a subject and write that outline, later you can exchange outlines.
6. Although some students in your class may be overly competitive there will be a greater number that will help you if you have a problem.
7. It is natural to feel that you are the only one who does not understand what is going on or how all the details fit together. Most students have the same feelings. Eventually everything will come together, however it may take several months.

(Continued on page 11)

The Woolpack wishes each and everyone of the incoming first-year students a successful year ahead at USD. In order to facilitate and enhance your legal education during the coming year it is recommended that you all get involved in campus organizations. There are various groups which offer students a chance to get involved along with the opportunity to meet interesting people. Among the organizations which invite participation there is:

THE ABA/LSJ

The law school division of the American Bar Association is the largest graduate student group in the country, and students should familiarize themselves with this valuable and relevant national organization. The ABA/LSJ is one of the most useful organizations for many reasons and the cost to join is only \$10.00 per year. Among the benefits of membership there is a nine-month subscription to *Student Lawyer* magazine, a twelve-month subscription to the *ABA Journal*, low-cost insurance programs, including major medical health insurance and life insurance. There are also excellent opportunities to establish contacts with leading practitioners in the senior bar and law students from all over the country. Students are also given the opportunities for involvement as a liaison to the ABA. Recognition is also given to the school on a national level through the active presence of the ABA/LSJ members at various functions. Organized competitions such as the National Appellate Advocacy Competition, Client Counseling Competition, Circuit and National Newspaper Competitions, and more are available as well. Contact the SBA for more information regarding the benefits of membership.

THE ADVOCATE

The brainchild of Development Director Libby Stroube, *The Advocate* is a newsletter which will primarily be circulated to alumni. Publication is tentatively scheduled twice a year.

ASIAN AMERICAN LAW STUDENTS ASSOCIATION (AALS)
BLACK AMERICAN LAW STUDENTS ASSOCIATION (BALSA)
CHICANO LAW STUDENT ASSOCIATION (CLSA)
DIVERSITY QUALIFIED LAW STUDENTS ASSOCIATION (DQLSA)
NATIVE AMERICAN LAW STUDENTS ASSOCIATION (NALSA)

Students admitted to the Law School through the Diversity Qualified Admissions program are organized into the above five listed groups. The diversity qualified students offer tutorial programs and other support groups for their members. During Fall semester each year, the members recruit diversely qualified students for the up-coming school year. The Diversity Offices are located on the ground floor of More Hall near the Placement Office.

HONOR COURT

Most students have a limited idea of what Honor Court is or does. The Honor Court establishes the rules by which the students of the University of San Diego School of Law shall be governed with respect to any conduct relating to academic affairs. The court is composed of six justices, three of whom are faculty members, and three of whom are students; alternate justices, a student preliminary examiner and a faculty preliminary examiner and Honor Court Prosecutor.

Any person who has reasonable cause to believe that a student has violated the honor code shall file a written statement of facts with the Honor Court by placing the statement in the Honor Court box, located in the SAB Office and the faculty mailroom.

INTERNATIONAL LAW SOCIETY

The ILS is a student organization that is devoted to promoting the study of international law and disseminating information about a career in the international legal community. The ILS also supports the expansion of the international law curriculum. The Jessup International Moot Court Competition is a major endeavor of the ILS. This competition is the largest in the world.

PICKS AND PANS ...

By Donna Starr
Staff Writer

either.

One of the bigger potholes on the road to the bar exam lies in the pit of possession. It may be nine-tenths of the law, but I will never trust anything as sneaky as the notion of possession. For example, imagine how rattled I felt the grim day I learned that my parents don't own the land our house is on, only an interest in it which may or may not become necessary. Right there and then I knew possession was a trap for the innocent in the legal jungle.

The worst thing about the first year of law school concerns the safety of the clear blue yonder. I used to believe, heart and soul, that flying was safe, then the doctrine of *res ipsa loquitur* dealt me a knock-out blow. My torts and civil procedure classes were full (or they seemed to be) of lawsuits from airplane tragedies. That there is a human tragedy under-

This time last year San Diego meant palm trees, Solarcaine, huge freeways, and law school to me. Twelve months later I can extract from the chaos (most of it happy chaos) of my first year here bits of advice for beginners in law school and a list of picks and pans.

Right away I want to warn all incoming students about the darker side of law school. They speak a different lingo in More Hall. It's full of Latin, which has to be looked up in *Black's Law Dictionary*, and off-color nouns like torts, which turn out to be non-edible. There's a verb lurking in Kratter Law Library called shepardizing and it's a real menace. Don't ever try to explain the term "sewer service" from your civil procedure to your mother. She won't understand what you mean and she won't like how your vocabulary has slipped since you started law school,

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INTRAMURAL SPORTS

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Football consists of an eight-man flag football team played under rules approved by the team captains.

Softball is ten-man slow pitch. Basketball is half-court.

See the A-frame labeled "intramurals" on the main floor of More Hall for details regarding captains meetings, schedules, and other organizational information.

SAN DIEGO LAW REVIEW

The *San Diego Law Review* will publish volumes to add to the ongoing review each year. Each year, the Association also publishes a special issue which focuses on immigration law as well as an issue dedicated to the law of the sea in addition to several general subject issues.

Membership in law review is open to students who are in the top five percent of their class at the end of their first semester, students who are in the top ten percent of their class at the end of their first year, and those students who are selected from the annual writing competition.

MOOT COURT

The Moot Court Board supervises the first-year Spring semester competition each year as well as several competitions restricted to upper-division law students. For more information on how students can participate in competitions see the articles in the next issues of *The Woolack*.

PAD FRATERNITY

Phi Alpha Delta is a legal fraternity for both men and women. It is the largest fraternity on campus and the second largest legal organization in the country. PAD emphasizes service to the community, professional enrichment as well as social activities. Representatives from PAD will be available to speak at first-year orientation and the first-year picnic. The PAD office is located on the first floor of the law school.

PDP FRATERNITY

Phi Delta Phi is one of the two legal fraternities and membership is

open to all law students. During the first week of classes each year, PDP sells everyone's used books for a commission. The sale is held in front of the PDP office, which is on the ground floor of More Hall. Second, third and fourth year students can exchange their used casebooks, hornbooks and commercial outlines for a receipt. Students should set their own prices for the materials they wish to sell. Once the book sale is over, students who have left books with the fraternity pick up checks and any materials PDP did not sell.

STUDENT BAR ASSOCIATION

All law students at USD are members of the SBA. The represen-

tatives of the SBA consist of an Executive Board and Board of Directors. The Executive Board is comprised of the following people: President, Douglas Friednash, Day Vice President, Sue Melton, Night Vice President, Melissa Crenshaw, Secretary, Patty Siencke, Treasurer, Greg Fucicelo. Elections to the Board are held in the spring of each year. The Board of Directors consists of a representative from each first year class section, two representatives from both the second and third year class and one from the fourth year class. The representatives are elected in the fall between the second and fourth week of classes. The representatives may be nominated by themselves or other classmates.

The SBA determines the allocation of SBA funds, plans social events, and supports law school organizations. The SBA will be providing speakers from the legal com-

munity, and open forum discussions with professors this academic year. The SBA officers and representatives may be contacted by leaving a message in their mailboxes located in the SBA office on the first floor of the law school. Please contact the SBA for any matter that would require their attention. The meeting times and places will be posted and all meetings are open to the students.

WOMEN-IN-LAW

The Women-In-Law organization seeks members which are enthusiastic to the causes and ideals of women involved in the legal arena. This organization brings stimulating speakers to USD ranging from women politicians to women judges to women litigators. This year Women-In-Law at USD will host the 15th Annual Far West Regional Conference on Women and the Law which will be held at USD on October 25th, 26th and 27th.

THE WOOLACK

The Woolack is a monthly published newspaper and the only publication issued regularly by the law school student body. All students, faculty, administrators and alumni are invited to make contributions. The staff encourages students to join as reporters, editors, artists and photographers. *The Woolack* reports on the internal affairs of the law school, alumni activities, and the legal profession.

Everyone is invited to visit the office or to submit letters to the editor. Mailboxes are located outside the Woolack office on the first floor of More Hall, in the faculty mail room on the second floor of More Hall and adjacent to the SBA office on the first floor of More Hall. Participation is encouraged. The staff is friendly and approachable so do not hesitate to become involved. Everyone's contribution is valuable.

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neath every impersonal court case is something I can't shelve on my sagging bookcase. Considering how much I forgot during exams, it amazes me that I can't get these cases out of my mind. I used to stride up the ramp to the airplane smiling because I enjoyed flying; my biggest worry was whether a gabby old lady or "Mr. Right" would be seated next to me. Now I creep onto the plane wishing I could carry my teddy bear Tedal without public scorn. When I flew to Denver over Easter the little girl next to me sat clutching two cabbage patch dolls as we hit turbulence over the Rockies. I wanted to ask her if I could borrow a doll for the duration of the flight, but something — maybe dignity, most likely, dry-mouthed fear — prevented me. This allergy to the friendly skies is the nastiest thing I picked up during the

(continued on page 9)

Profiling San Diego Practitioners:



Profile:

C. Bradley Hallen

by Carmen Naranjo
Editor-in-Chief

Brad Hallen has a friendly and trusting manner. Upon meeting him you feel he is someone you can put your faith in. This quality has greatly attributed to his successful jury trials. Brad is very unassuming but at the same time he is a passionate, single-minded lawyer who has an impressive record as an advocate. Jurors trust and believe him.

As a prosecutor he is most noted for the 1981 prosecution of the rapist of two elementary school teachers in their classroom. Also, for the successful prosecution of the 1977 Rupert Rialubin murder case in Escondido. As a defense attorney he succeeded in the acquittals of Curtis Lee Rupertson and Billy Young, each of whom had first degree murder charges. He also successfully secured a reversal for Candy Bonawell, who had been convicted by a jury of stealing her own child.

Two years ago Brad began to specialize in personal injury and his caseload has been ever increasing. Many of the cases are rapidly ripening and should be going to trial within the

next twelve months. Brad is looking forward to the successful litigation of more than one potential landmark case.

Brad is a San Diego native who is a graduate of Hastings Law School in San Francisco. He describes his legal education as having been highly inspiring as he was taught by some of the great legal minds of the 20th Century. Among his professors were Prosser for Torts, Perkins for Criminal Law, Powell for Property, and Osborn for Suretyship. Upon graduation he returned to San Diego in 1970 at a time when the job market was extremely tight. There was a tremendous glut of lawyers in the San Diego market as there is today. Brad accepted an offer from the District Attorney of the County of Imperial and worked in the D.A.'s office in El Centro for 1½ years. In July 1972 Brad began working for Ed Miller, the District Attorney of San Diego County. He worked with Mr. Miller until 1981, and upon that time entered private practice and today emphasizes personal injury litigation.

ON WORKING IN THE DISTRICT ATTORNEYS OFFICE

Over the space of a 10-year career, I went from misdemeanor trials, preliminary hearings and felony trials to supervising for the last four years. From 1977-1980, I ran the North County D.A.'s office (about 35 employees). I handled everything from murder trials to obscenity cases. By 1980, I had reached a point where there was nothing further to accomplish in terms of a prosecutorial career. Cases became redundant; when murder cases began to blend together it is time to seek new challenges.

It is relatively easy to convict somebody with the bias against a criminal defendant. You win almost all your cases and you start to think you are a great lawyer. You later realize that the truth is that juries are tremendously biased against criminal defendants. ("He wouldn't be here if he weren't guilty.") You are only doing your job if you win most of your

cases. If a prosecutor doesn't win 95% of his cases, he is doing something wrong. There is only so much gratification that comes from performing a feat that is not that difficult to begin with. There are some difficult cases, but not many. Being on the "right" side is the easy side of a lawsuit. It is hard to win a lawsuit when you are on the "wrong side". Most criminal defendants are guilty of something, all you do as a prosecutor is preserve their status as a guilty person. It's a little like shooting fish in a barrel.

ON LEAVING THE DISTRICT ATTORNEYS OFFICE

I felt strongly challenged by the task of trying to convince a jury that justice may dictate something other than a guilty verdict in every case. I wanted to participate in defending people against a system with vast, almost limitless resources. I felt restricted in knowing that criminal law and related areas (evidence and constitutional law) comprise only about

5% of the working law. It was bothersome to me to be involved for over 10 years in only 5% of the law. I wanted to get back into those areas I enjoyed in law school, such as tort law.

Although the District Attorney in a criminal case represents THE PEOPLE, in a real sense he is not representing the state. I began to find that the only cases I truly enjoyed as a prosecutor were ones in which I had people as victims, such as a rape and battery case. When I took these cases to court, I was actually representing a person, not just an entity. It became a natural evolution for me to want to represent people who I felt deserved assistance in a criminal case and to help individuals injured in catastrophic events.

ON ENTERING THE PRIVATE SECTOR

Attorneys beginning practice with an established firm usually begin working in some particular specialized area of the law. I left the D.A.'s office and went into an association relationship with another attorney. I did what any lawyer does who is attempting to build a general practice: I accepted a diversified case list and began to build a client base. It was educational but frustrating to attempt to master 25 areas of the law from adoptions to bankruptcy. After achieving a certain level of competence in the D.A.'s office and feeling that I understood most of what there was to know about the criminal law, it was somewhat disconcerting to step in on a highly competitive level in every area of the law. I began to realize that to master every area of law was impossible. I tried to narrow the field. I began to emphasize personal injury. At the same time I never stopped doing criminal cases.

ON CRIMINAL CASES

I really do have a fondness for the criminal law. I like being involved in the drama of a criminal case. There is absolutely nothing like the drama of the criminal courtroom; it is every bit as electric as the live stage. It is fun to have a captive audience. It is like the best of the dramatic world, you not only get to be the actor but you also get to write the script, you get to write the questions and in a large sense direct the outcome. The drama is there, the stakes are much higher than in any other type of lawsuit. For example, the decision in a tort case is usually how comfortable will a person be as a result of your activity. The decision in a criminal case will be the difference between whether the person is living as a free man or living in a cage. It is a very large issue that is presented to the jury. Further, most criminal cases are extremely close cases and there is a very fine line between liberty and imprisonment.

ON PERSONAL INJURY LAW

A compelling factor which brought me into the area of personal injury law was my general ignorance of the field of medicine. It bothered me to have an entire area of science outside my range of knowledge. The idea of having a new field that is not capable of mastery to tackle was very intriguing. No lawyer can master medicine, all he can do is approximate the knowledge. The whole field is fascinating. Learning medicine and relating it to trial technique is an art form.

Further, the tort field is a constantly evolving field whereas criminal is relatively static. Tort law is dynamic, constantly expanding. We live in a society that has made certain decisions regarding the socialization of the risk of harm. It is interesting to be involved in the evolution of that process. If you push the cases that are on the edge of existing limits, you may well make new law. The cases

that do not get settled, where the issue is not the amount of damages but rather whether or not the defendant should be responsible, present new liability questions. We are now working on a number of cases as to which liability will be determined by where the law goes in the next few years. When these cases involve substantial damages, the issues are every bit as exciting as those in criminal law.

I am in favor of having those industries which profit from creation of risk be responsible for indemnifying the victims of those risks. Many industries participate in activities which create a risk of harm. I think it appropriate that such an industry indemnify those persons who are injured by the risk. For example, automobiles are only "semi-safe". People are maimed and killed as a result of, in many cases, the design of the automobile. It might be true that a risk/benefit analysis might not make it feasible to render a car safer, the car might weigh twice as much, be twice as large and use twice as much gas. If the industry chooses to economize in order to make a product that is economically feasible, then the industry has the responsibility to indemnify those people that are injured. The law in this area has not always been as clear as it is now. Strict liability continues to expand to new and different areas.

GOALS AND ASPIRATIONS

I want to devote the balance of my career to plaintiff's personal injury work. I would like to be able to con-

clude my career and look back upon a series of cases in which the work I did made a difference in the outcome. In other words, some cases merely need to be "processed". Other cases are won and lost based on the skill of the litigation team. Those are the cases as a criminal defense lawyer which now give me the most satisfaction. Those are the cases which I feel will give me the most satisfaction over the balance of my career as a tort lawyer.

One interesting feature of the law is that no two lawyers try the same case the same way. The range of difference is so incredible that it is almost beyond belief. The same facts argued by 10 different lawyers will look like 10 different cases.

ADVICE TO LAW STUDENTS

One of the deficiencies I see now as I saw in law school is the relative infrequency with which law students are required to monitor actual trials. On any given day of the week there are 20 jury trials in progress in San Diego County but it is rare to see a law student there. There is no greater training for trial lawyers than to watch good trial lawyers in action. You cannot learn advocacy by yourself. You cannot learn it from a book and it is too late to do it when your first client wants you to defend him on a drunk driving charge.

On any given day you can see 5 to 10 of the best advocates in California in San Diego. To not take advantage of that opportunity is absolutely

(Continued on page 9)

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THIS MONTH — PERSONAL INJURY

Profile:

Michael San Filippo

Michael San Filippo is an attorney with the law firm of Frank, Roseman, Freedus & Mann in San Diego. Mike is a 1980 graduate from the Pepperdine law school.

Before coming to Frank, Roseman, Freedus & Mann, Mike worked for a couple of firms. Of his pre-Frank, Roseman days Mike says, "All in all, it was a good experience. I was exposed to a number of different areas of the law, and from there I chose the area I wanted to specialize in — insurance defense."

Mike says he chose insurance defense because he thinks tort law generally has a more personal feel to it than drawing up an estate plan, or giving advice on taxes. He chose insurance defense because he claims it fits his "conservative value system."

He feels for those who have been injured, but he also feels that many people who have been injured try and get more than they deserve.

He also likes working with insurance companies because, as he says, "they pay their bills regularly and on time. In the general civil practice," Mike says, "a client will hire you, you will secure a retainer and begin work with the understanding that the client will pay the difference after the retainer is used. But, often, that is not the case and the client never pays."

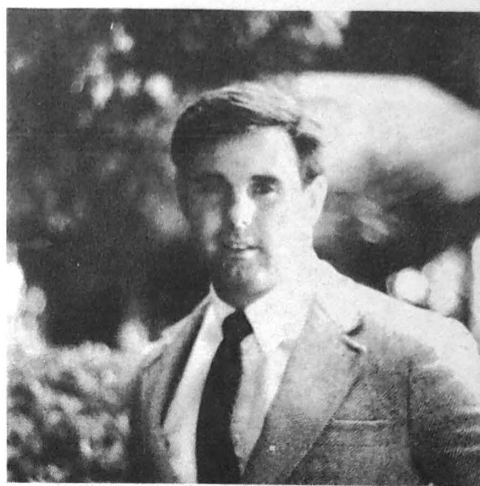
When you defend insurance companies, you litigate. Mike says law can be split one of two ways, either along the lines of civil or criminal or along the lines of transactional law, (wills, estate plans, etc.), or litigation. Litigation involves a great deal of

discovery, motion preparation and pleading, settlement negotiations and trial exposure.

Mike says working in a small firm has its pluses. He says there is a greater degree of camaraderie in the office, there is less of an emphasis on billing hour quotas, and a greater bond between a senior partner and the associate.

He says the biggest minus is pay. "Small firms," says Mike, "almost always pay less than a larger firm doing the same work."

For those contemplating on entering this area of the law, Mike says to concentrate on Civil Procedure and evidence. He says law school is the first step in the learning experience of becoming a lawyer. He says law school is a learning experience in



how to think, analyze, approach and solve a problem. He studied business and tax, but ended up in insurance defense. He said the business classes were not wasted because he learned how to approach a business prob-

lem, an approach that is just as valid in insurance defense. "No class is wasted if it helps sharpen your analytical and reasoning abilities. That is what allows you to handle any legal problem."

Picks and Pans . . .

(continued from page 7)

first year. Among the best things about the first year of law school are the professors. Even though they were demanding in the classroom, most really did care about us and tried to lessen our exam anxiety, which was no easy assignment. (A bit like keeping the Irish out of the pub.) Another heartening aspect of the first year is what it does for your physique. My upper arms have acquired more muscle tone and contour from hauling heavy casebooks, hornbooks, and outlines than I would have dreamed possible in the pre-legal past. While we're discussing the books, here's good news for the frugal. Do you remember buying big, expensive books in undergraduate school and then being asked to read only one-third of them? Those wasteful days are over; my contracts book was 1,312 pages long and we were assigned every page! Now that is getting your money's worth.

The most memorable thing from my first year is the comradeship I felt with the students in my section. When I walked into my first class in law school (contracts), I remember thinking how "Californian" the people looked; Hawaiian prints, blondes, and things came at me. I felt very far from home. By the time my last class with section B (civil procedure) rolled around, almost everybody in the room had become a distinct personality for me. I hope every first year student will feel this esprit de corps with his section. If you are not too competitive, there are worthwhile people in law school and you will meet them if you make the effort.

(Continued from page 8)

C. Bradley Hallen

wrong. When I was a Deputy District Attorney, I spent every spare minute of my time in the back row of courtrooms watching the great trial attorneys of this city. Law students should do the same.

Only so much of the law is done in the office. In a way I feel sympathy for those attorneys who rarely go to trial and then only in a non-jury setting. Jury trials are what our judicial system is all about. It is all facts, timing, and theatre and you can only learn much of it by exposure to it. In law school you have a luxury of time that you will never have again. You may think that as a law student you have a tremendous amount of pressure operating to consume your time. Actually, you will never have it this easy again.

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PENNOYER v. NEFF

Supreme Court of the United States, 1877.
95 U.S. 714, 24 L.Ed. 565.

Error to the Circuit Court of the United States for the District of Oregon.

Mr. Justice FIELD delivered the opinion of the court:
This is an action to recover the possession of a tract of land, of the alleged value of \$15,000, situated in the State of Oregon. The plaintiff asserts title to the premises by a patent of the United States issued to him in [March] 1866, under the Act of Congress of September 27th, 1850, 9 Stat. at L., 496, usually known as the Donation Law of Oregon. The defendant claims to have acquired the premises under a sheriff's deed, made upon a sale of the property on execution issued upon a judgment recovered against the plaintiff in one of the circuit courts of the State. The case turns upon the validity of this judgment.

It appears from the record that the judgment was rendered in February, 1866, in favor of J. H. Mitchell, for less than \$300, including costs, in an action brought by him upon a demand for services as an attorney; that, at the time the action was commenced and the judgment rendered, the defendant therein, the plaintiff here, was a non-resident of the State; that he was not personally served with process, and did not appear therein; and that the judgment was entered upon his default in not answering the complaint, upon a constructive service of summons by publication.

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SPORTS LAW IS "BERRY'S WORLD"

By Mike Saverino
Sports Editor

On June 9, in Boston, the Lakers beat the Celtics in game six of the final series to win the NBA championship. After witnessing his team's demise, a dejected Celtic fan caught a flight for San Diego. On June 10, instead of being court-side that same fan found himself behind a podium in Grace Courtroom.

Professor Robert Berry from Boston College taught his Entertainment and Sports Law course at USD this past summer. Professor Berry has been one of the top academics in the sports law field since he offered the first course in sports law anywhere, at Boston College in the fall of 1972. He added entertainment law in the spring of 1976, and the two are now taught as a year long course. In addition, Berry teaches either a contracts or constitutional law class.

An appreciation of entertainment and sports runs in Berry's background. The tall and lean Celtic fan had hopes of being a basketball player as a high schooler in St. Joseph, Missouri, but a shattered elbow put an end to that. At the University of Missouri he picked up tennis to rehabilitate the elbow and he was good enough to play two years for the college team. He later added a decent golf game and eventually brought back basketball somewhat.

Berry went on to Harvard where he became involved in the Harvard Law Record. A co-worker peaked his interest in entertainment. They would go to Boston for pre-Broadway plays or spend late nights watching old movies on television.

Graduating from Harvard in 1961 he practiced for a time in Missouri and then in Boston. In the mid-60's he began teaching at Harvard, then the University of Florida where he taught contracts and constitutional law.

At Boston College Professor Berry literally became interested in sports law by noticing that legal items were continually in the sports page and that "many different legal areas were involved. I thought it would be a different and interesting course where students are not just thinking about contracts or anti-trust."

About his start Berry said, "I tried sports law and it really took, so I pursued it. I knew very little about the anti-trust or labor fields at first. I've had to pick up expertise in areas over the years that I had had little involvement in up to that point."

Does that include trivia? Berry begins each class with a difficult round of trivia questions, and incorporates trivia into his lectures, where necessary, as background material to better understand an area. Many students from his summer course found it to be one of the most interesting courses they have taken. But a prevailing opinion was expressed by second year student Dennis Lord. "I think sports and entertainment should be offered as two courses."

Berry clearly agrees. "Ideally, it should be taught as two separate introductory courses." Whether his summer course did justice to either subject Berry said, "We have to cut out a lot of things. There is really no ability to get the students deeply into going through negotiation of contracts or putting business deals together. But even so, students

should be able to come out of it with a good idea of what is involved."

This was the first class that Berry had taught at USD, but here is a bit of trivia. Berry actually interviewed for the deanship at USD in 1971, but he had had no contact with the school since then. Though with glasses, thinning grey hair, and trimmed silver beard Berry may look like deanship material, there would be a noticeable difference in the sports law field today, academically, if he had been sidetracked.

And now Professor Berry's thoughts on Sports Law and related areas.

QUESTION: What courses do you recommend as background for a career in sports law?

BERRY: As far as legal subject matter you are more likely to use your knowledge of contracts and tax than other fields. Actually, I find that many of the people who are handling athletes are not tax experts. In fact, it's rare for the negotiator to also be the one doing the taxes. Beyond that you certainly need knowledge about the anti-trust and labor fields. On the management side you will get more into corporation and property. Some very challenging legal work comes to those who are representing clubs and leagues.

QUESTION: You pointed out that quite often the negotiator is separate from the tax expert. What qualities make for a good negotiator?

BERRY: An ability to anticipate what problems may develop and to be able to formulate strategies on the basis of that. Those are very difficult qualities to teach, although an astute observer is going to learn a lot once getting into the negotiating area, particularly if the person is privileged to sit in on actual negotiations. That's the ideal way to learn. I think negotiation can be taught but you can't pin it down as much as you can more substantive legal topics.

QUESTION: How difficult is it to get started in the sports law area?

BERRY: It's difficult because of the very limited number of opportunities. When you consider how many

lawyers and agents there are, or those who would like to be lawyers or agents, in the area and how many real paying customers there are, it doesn't take much to fill up the field as far as getting representation. Consequently, there is a real scramble in order to land a job or to go out on one's own and get clients.

QUESTION: Is baseball perhaps the best area in which to get a start?

BERRY: I think it is, largely because of the minor league system. A lot of players enter without representation, and it's only as they start getting toward the major leagues that people are paying quite as much attention to them. Obviously this is not true of those taken very high in the draft.

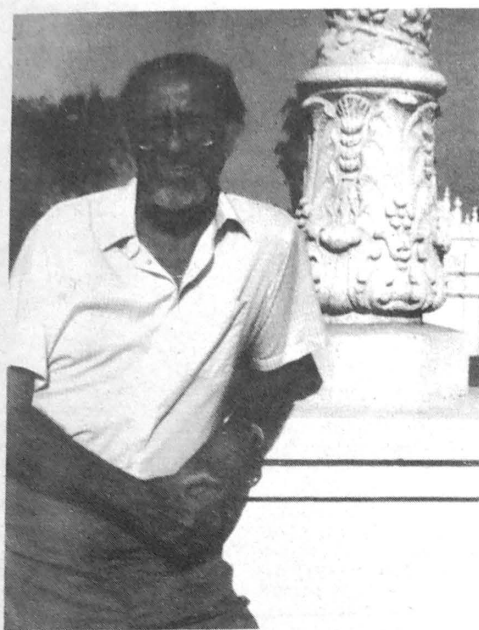
QUESTION: You have a book coming out this fall on negotiating sports contracts that you wrote with attorney Bob Woolf. How did you come to know Bob Woolf?

BERRY: When I first put together my sports law course, I was looking for any help I could get. I called Woolf and Chuck Sullivan (of the Patriots). I got some input from both the agent side and the management side. They sent me some materials. Woolf and I hit it off, we kept in touch and in the late 70's he got involved in the ABA formation of the Forum Committee of the Entertainment and Sports Industries. Probably through him more than anyone else I was appointed chair of the Sports Division in 1979. About that same time I started getting involved in some of Woolf's practice. He asked me to help him with some contracts and salary arbitrations. By that time I had already handled some clients of my own.

QUESTION: Professional clubs seem to be moving toward in-house counsel.

BERRY: That's something that I've been preaching about for years. It would certainly provide more jobs, at least more direct jobs. I think clubs are foolish not to have in-house

(Continued on page 11)



Professor Robert Berry of Boston College

MOHR GOLF TOURNEY SET FOR OCTOBER

In the spring of 1976, Michael Mohr, a second year USD law student, was killed in a plane crash. His sudden death profoundly shocked all who had known him.

The following year, it was decided to establish a Memorial Fund in his honor. Because golf had been one of Michael's special recreational pleasures, the Michael Mohr Memorial Golf Tournament was conceived. To date, nine such tournaments have been held.

Through Muller's efforts, along with those of his wife, Lynn and the Mohr family, a substantial sum has been raised. Part of this fund was used to purchase the judge's bench in the Moot Court Room. It has also made a number of loans of \$500 each to needy law students. With each consecutive year, the tournament has grown. Strong faculty and adminis-

trative support has been forthcoming and the tournament is now regarded as one of the top social experiences for USD law students. Alumni have flown in from all areas of the country, including the east coast.

The tournament now has a permanent site at Cottonwood Golf Course and a permanent date, the last Saturday of October. The 1985 tournament will be held on October 26th.

Special prizes are being lined up for this year's event. In the past, more than \$1,000 in merchandise has been given away annually. That total will be exceeded this year.

Mark your calendar now. Anyone who has ever played in the Michael Mohr Tournament will urge you not to miss this opportunity. Keep posted for more details.

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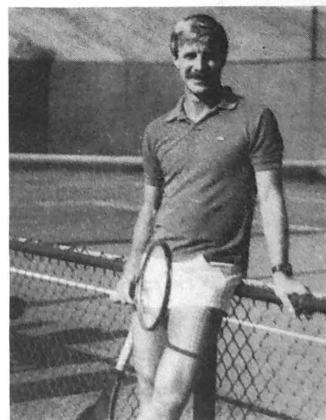
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GOLDEN AGE OF BASEBALL ON DISPLAY

by Mike Saverino
Sports Editor

The old black and white photograph was taken in 1909 at Highlander Park in New York. From ground level it shows Ty Cobb cutting up Yankee third baseman Jimmy Austin with a jarring slide, dirt and dust spraying everywhere, umpire in the background covering the play. The picture captures the essence of Cobb, the crazed competitor, and the essence of baseball's Golden Age when men played under harsh conditions for the love of the game. It has been called "the game's greatest shot". It was taken by the late Charles Martin Conlon, considered by most to be the game's greatest photographer.

Some of Conlon's works are currently on exhibit at the Hall of Champions in Balboa Park through September 22. Sixty-six prints were selected from more than 8,000 original glass negatives. The negatives are stored in *The Sporting News* archives in St. Louis.

Conlon was one of the first professional sports photographers. He was hired in 1904 to take pictures for the Spalding Official Baseball Guide. He photographed most of the major league players from 1905 to 1935, the year of his retirement.

Working with bulky cameras and glass negatives, Conlon's sharp clear prints show an intuitive understanding of his subjects, many of whom became his good friends. Cobb, Babe Ruth, Lou Gehrig, Walter Johnson, Dizzy Dean, and many others are featured in this display entitled "Baseball Immortals". Close-ups of Ruth, Gehrig, Joe Dugan and Bob

Meusel reflect the hard life of a ball player in those days, their faces bearing a common weariness. The entire Cobb sequence is impressive, as Conlon captures his intensity, determination, and uniqueness. One picture focuses exclusively on his familiar split hand batting grip.

Other highlights include diminutive Yankee manager Miller Huggins sitting on a Coca-Cola crate at the top of the dugout steps concentrating on the action, Leo Durocher and Casey Stengel as young players, Hack Wilson hitting the dirt to avoid a knockdown pitch, and A's manager Connie Mack in his three-piece suit positioning players with a wave of his score card from the dugout steps. But perhaps Conlon best captures the spirit of our national pastime in a picture of the highly respected Christy Mathewson shaking hands with a wide-eyed, overwhelmed little boy in a baseball uniform.

The Charles Martin Conlon exhibit is a must for even mildly enthused baseball fans. The Hall of Champions is open Monday through Saturday from 10:00 to 4:30, Sunday from 12:00 to 5:00. Put aside time to enjoy this slice of baseball history. You'll also be impressed with the other exhibits and attractions the Hall has to offer.

"Berry's World"

(Continued from page 10)

counsel. As for the day-to-day looking after things why pay the higher fees when they can get very good legal advice in house and have someone on the staff who can do a number of things including legal work.

QUESTION: Regarding regulation in the area of representation, do you see agents being phased out in favor of attorney/agents?

BERRY: That will come about if the players associations take a stronger stand, if they put some teeth into their regulations. There are some good agents who are not attorneys, but I think it is a real risk as far as the player is concerned, and it is another step which I strongly favor.

QUESTION: What pitfalls would you caution students and young attorneys about in this area or in general?

BERRY: Quite often when lawyers get into litigation, they don't seem to have thought through just how they can convince as to what the appropriate remedy should be. Also, I think in general, lawyers often spread themselves too thin and they just don't put in the time on something that they should. The obvious problem is that economically maybe they can't afford to do so, because they really can't charge their clients the money for the amount of time it takes. But, I have sat as an arbitrator in enough cases to reach the conclusion that often lawyers have not prepared as well as they should have.

QUESTION: Do you see any significant changes ahead in the sports law area?

BERRY: If the leagues and clubs get even more involved in producing and televising sports events, this is going to create a number of challenges for everybody. We're going to have a constant searching by people with money to see if they can start new leagues, most of which will be unsuccessful. It would appear that the leagues are pretty well locked into a structure where labor relations is very important, so long as you have the unionization of players. I'm sure in several leagues the owners would just as soon be rid of the unions but I don't think that's going to happen. Overall, I think it's going to be business as usual. One thing about sports is that it has a continual renewing quality to it. There is always a game tomorrow, a new competition, a new result. For most people, they're not going to notice a great shift as far as what is going to happen in the sports area.

(Continued from page 6)

Helpful Hints

8. Ask second and third year law students about your professors, and get their opinions on how to study for that professor.

9. Ask your professors for help. Most professors are willing to work with you and help you understand the subject.

10. Sample exam questions are in the library. Ask at the reference desk for your professor's questions.

11. Exercising helps to clear your mind.

12. Always try to get away from studying and relax at least one full day a week. You will be surprised how refreshed you will be when you return to studying.

(Continued from page 6)

Book Beat

within fact patterns and apply rules of law to arrive at a conclusion. Taking old tests is excellent preparation for an upcoming examination. Some professors will also administer, but not grade, a sample final examination late in the semester.

BAR REVIEW COURSES

Immediately after graduation, many law students study for the California Bar Examination with the help of commercial bar review courses. The two major courses offered are BAR/BRI and BRC. Both companies offer valuable services. By signing up early you may be entitled to study aids for the major courses during law school.

STUDYING

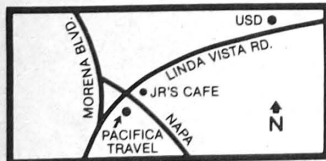
Study habits vary with the individual student. Many study each day, while others cram before exams. First-year courses require a great deal of reading so remember to stay current because it is difficult to catch up. A valuable study aid is other students. Study groups and informal discussions are helpful, and second- and third-year students may provide excellent insight into a particular course. Set your own study pace and relax.

GRADES AND COMPETITION

Everyone at USD has the ability to get through law school or else you would not have been admitted. Some students are not content unless they are in the top 10% of the class, while others could care less. Remember, a C grade in law school is not a bad grade. Furthermore, grades do not necessarily reflect the quality of attorney you will be.

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Parking Pandemonium

By Julie R-Cardenas
Managing Editor

Who stole the parking? Never fear, there is parking. However, unless students have an early class they can plan on hiking to class. Students should plan to wear their sneakers and their backpacks. Although parking is further away, there is an increase of approximately 129 spaces. The following is a list of some of the places to park that are closest to the law school.

1. The first two parking lots off of Santa Ana Drive. These lots last year were for dorm students and have been converted this year for commuting students. A short hike up the stairs and students are near the law school.

2. The School of Education's parking lot has been increased to handle 30 more cars, and parallel parking

has been expanded to handle 12 more cars.

3. Parking will also be available on the South Perimeter road in the diagonal stalls. This area provides parking for 80 cars.

Resident students are permitted to park in the parking areas assigned to their respective dorms. Resident students' vehicles will be towed from all other parking areas. This will clear the parking close to the law school and make parking more accessible to commuting students.

Wherever students park they must make sure it is a legitimate marked space because Security now has two full-time agents whose duty it is to give tickets and tow cars eight hours a day!

(Continued from page 1)

Becker case: Ursin & Nolan

contentions were as follows: 1. The rational behind the Court's recognition of an implied warranty of habitability in *Green v. Superior Court* supported the doctrine of landlord strict tort liability; 2. The movement toward strict landlord tort liability could be further seen in cases holding landlords to a duty of due care; these cases, which are analogous to Justice Cardozo's holding in *MacPhearson v. Buick Motor Co.*, that manufacturers owed a duty of due care to the public, were an intermediate step leading to strict landlord tort liability; 3. Strict landlord tort liability was compelled by the logic and policy of the Court's previous strict liability decisions, which held that strict products liability applied to lessors in the same manner it applied to sellers, and which have endorsed the application of strict liability to the sale of housing; 4. That the fundamental tort policies articulated by the Court in its products liability decisions were equally applicable to landlords in the business of leasing and compelled the doctrine of strict liability; 5. The rule necessary to decide Becker, that landlords in the business of leasing are strictly liable for injuries caused by defective fixtures on the leased premises, had been declared as California law seven years past by the Court of Appeals in *Golden v. Conway*.

The brief argues that the defective wall heater in *Golden* is legally indistinguishable from the defective shower door that injured Mr. Becker. The application of strict tort liability to defendant IRM was con-

sequently not novel or unprecedented. The strict liability rules necessary to decide the case was held to have been supported not only by the Court's strict liability holdings but also by the *Golden* decision that a landlord in the business of leasing is strictly liable in tort for injury caused by a dangerous defective fixture on the leased premises.

Becker vs. IRM Corporation, Id. held that in the landlord liability context, as in the products liability context, "decisions that formerly tied liability to the fault of the tortfeasor are now more concerned with the safety of the individual who suffers loss." Nolan and Ursin emphasized that because landlords are in the business of leasing premises, they could better insure and thus spread liability costs among the public, the loss spreading policy was emphasized, a central theme in contemporary tort law would be served.

The principles of *Becker v. IRM Corporation* will be applied to business establishments, such as grocery stores, restaurants and department stores and will probably be extended to circumstances where the defect consists of slippery floor surfaces or any other hazards which are likely to cause falls.

USD Law School is proud to have such renowned and influential faculty members as Professor Ursina and Professor Nolan who are working to mold and shape the dynamic area of tort law. Professor Ursin, in conjunction with Professor Nolan, has written various influential and provocative treatises in the field of tort law and they will continue to be mavericks in the field.

By C. Naranjo

Trivia Dicta - - - This month: Contracts

by Rich Sintek
Staff Writer

1. Who was the principal draftsman of the Restatement of Contracts I?

2. Professors "walk" students across this bridge in unilateral/bilateral offer hypotheticals. Name this bridge.

3. In *Rolo-lith Ltd. v. F.P. Bartlett & Co.*, a "sticky" situation was created when the acceptance varied from the offer. What goods were involved in the transaction.

4. In *Kirksey v. Kirksey*, the defendant promised his sister-in-law a place to raise her family. Name the sister-in-law.

5. Zehmer offered to sell Lucy 471.6 acres of land in Dinwiddie County for how much money?

6. Give the full name of the fertile Angus cow in *Sherwood v. Walker*.

7. Mr. Hoffman learned about promissory estoppel while trying to become a franchise of this corporation. Name this Minnesota corporation.

8. Pfeiffer Company promised this retiring employee \$200.00 per month for the remainder of her life. Name this employee (plaintiff) who used promissory estoppel to enforce the promise.

9. a. In *Krell v. Henry*, the plaintiff granted the frustrated defendant a license to use his apartment for two days to view the King's coronation procession. Name the King.

b. The coronation was cancelled because the King was stricken by what disease.

10. a. Name the actress (plaintiff) in *Parker v. 20th Century Fox Film Corporation*.

b. Under contract, she was to play the female lead in this motion picture. Name the motion picture.

c. In attempts to mitigate, 20th Century-Fox offered her the female lead in this alternative film. Name the alternative film.

UNSOLVED TRIVIA AVAILABLE FOR LAW REVIEW RESEARCH

11. Where is Blackacre, who owns it, and how much is it worth today?

12. Is Newman & Snell's State Bank FDIC insured?

13. Why didn't the court require the bulb-nosed Sullivan to mitigate damages by seeking employment in the circus?

14. Are Baxendale's descendants the major shareholders in Federal Express?

15. In real, hard, cold cash, is \$5,000.00 a reasonable inducement to quit tobacco, drinking, swearing, cards and billiards?



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ANSWERS TO TRIVIA DICTA:

1. Samuel Williston; 2. Brooklyn; 3. *Ermiston*; 4. *Dear Sister Annilleco*; 5. \$50,000.00; 6. *Rose 2d of Aberlone*; 7. *Red Owl Stores, Inc.*; 8. Mrs. Anna Sachs Feinberg; 9. a. King Edward VII; b. *Pertypubilitis*; 10. a. Shirley MacLaine; b. *Bloomer Girl*; c. Big Country; Big Man.

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S-87
S-88